

SENATE BILL 1082
By Burks

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 3, Part 6, relative to forms for certain protections orders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-3-604, is amended by deleting the section in its entirety and substituting instead the following:

(a) The office of the clerk of court shall provide forms which may be necessary to seek a protection order under this part. These forms shall be limited to use in causes filed under this part and they shall be made available to all who request assistance in filing a petition. The petitioner is not limited to the use of these forms and may present to the court any legally sufficient petition in whatever form. The office of the clerk shall also assist a person who is not represented by counsel by filling in the name of the court on the petition, by indicating where the petitioner's name shall be filled in, by reading through the petition form with the petitioner, and by rendering any other such assistance as is necessary for the filing of the petition. All such petitions which are filed pro se shall be liberally construed in favor of the petitioner.

(b) The office of the clerk shall make available the following blank forms and/or such other forms as may be ordered by the court:

Petition for Orders of Protection

Case No.

Court

County State

PETITIONER/PLAINTIFF

First Middle Last

PETITIONER/PLAINTIFF IDENTIFIERS

Date of Birth of Petitioner

And/or on behalf of minor family member(s): (list name and
DOB)

Other Protected Persons/DOB:

V.

RESPONDENT

First Middle Last

Relationship to Petitioner:

Respondent's Address

RESPONDENT IDENTIFIERS

SEX	RACE	DOB	HT	WT
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
EYES	HAIR	SOCIAL SECURITY #		
<input type="text"/>	<input type="text"/>	<input type="text"/>		
DRIVERS LICENSE #				STATE
<input type="text"/>				<input type="text"/>

Distinguishing Features

CAUTION:

☐

Weapon Involved

*No one shall be denied an Order of
Protection for failure to provide any or all
of the respondent's identifying information.*

Petitioner, _____, pursuant to Tennessee Code Annotated, Section 36-3-601 et
seq., states:

1. Petitioner is a resident of _____ County, Tennessee.

2. Petitioner and respondent are:

- (A) Adults or minors who are current or former spouses;
- (B) Adults or minors who live together or who have lived together,
- (C) Adults or minors who are dating or who have dated or who have or
had a sexual relationship, [as used herein "dating" and "dated" do
not include fraternization between two (2) individuals in a business
or social context];
- (D) Adults or minors related by blood or adoption;
- (E) Adults or minors who are related or were formerly related by
marriage; or
- (F) Adult or minor children of a person in a relationship that is
described in subdivisions (A)-(E)

3. The parties have ____ minor child(ren). [Write name and age of each child on the following blank line:]

4. [Check one of the following:]

_____ The health, safety, or liberty of the petitioner and/or the parties' minor child(ren) would be jeopardized by disclosure of identifying information.

OR

_____ The child(ren)'s present address is _____.
The child(ren) has/have lived at the following address(es) for the past five (5) years:

_____ The names and addresses of the persons with whom the parties' minor child(ren) has/have lived during the last five (5) years are:

5. [Check one of the following]

_____ Petitioner is not aware of any prior pending actions concerning the custody of the parties' minor child(ren) in this or any other State.

_____ Petitioner is aware of the following prior or pending actions concerning the custody of the parties' minor child(ren) in this or any other State:

6. [Check one of the following]

____ Petitioner does not know of any person not a party to this proceeding who has physical custody of the parties' minor child(ren) or claims rights of custody or visitation with the parties' minor child(ren).

____ Petitioner knows of the following person(s) who have physical custody of the parties' minor child(ren) or claim rights of custody or visitation with the parties' minor child(ren):

7. Respondent has abused and/or threatened to abuse petitioner. Specifically, respondent has:
(Write what happened, when it happened, and where it happened on the following lines.)

8. Petitioner is in an immediate and present danger of abuse by respondent.

[For Paragraphs 9 through 12, check only if the particular paragraph is applicable:]

____ 9. Petitioner's minor child(ren) is/are in immediate and present danger of abuse by respondent.

____ 10. Petitioner needs support for the parties' minor child(ren).

____ 11. Petitioner needs support for the petitioner.

____ 12. Respondent refuses to leave the parties' residence.

[If you check paragraph 12, please check one of the following:]

____ Respondent is the sole _____ of the parties' residence.
[Owner or Lessee]

OR

____ Respondent is not the sole owner or lessee of the parties' residence.

WHEREFORE, PETITIONER PRAYS:

1. That an ex parte Order of Protection, as provided for in Tennessee Code Annotated, Section 36-3-605, be immediately issued [check all that apply]:

- _____ directing the respondent to refrain from committing domestic abuse or threatening to commit domestic abuse against the petitioner or the petitioners' minor child(ren);
- _____ prohibiting the respondent from telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly; and
- _____ prohibiting the respondent from stalking the petitioner, as defined in T.C.A. § 39-17-315;

and that copies of said order be served upon the respondent and filed with the local law enforcement agency;

2. That a hearing in this cause be set for within fifteen (15) days pursuant to Tennessee Code Annotated, Section 36-3-605, and that notice of said hearing be served upon respondent with the Order of Protection;

3. That upon a hearing of this cause, petitioner be granted an extended Order of Protection for one (1) year;

[For Paragraphs 4 through 8, check only if the particular paragraph is applicable.]

____ 4. That upon the hearing of this cause, petitioner be awarded temporary custody of the parties' minor child(ren).

____ 5. That upon the hearing of this cause, respondent be ordered to pay reasonable support for petitioner,

____ 6. That upon the hearing of this cause, respondent be ordered to pay reasonable support for parties' child(ren);

____ 7. That upon the hearing of this cause, exclusive possession of the parties' residence be awarded to petitioner or that respondent be ordered to provide alternative housing for petitioner;

____ 8. That respondent be directed to attend available counseling programs that address violence and control issues or substance abuse problems.

9. That respondent pay the costs and litigation tax of this cause;

10. For general relief.

THIS IS THE FIRST APPLICATION FOR EXTRAORDINARY PROCESS IN THIS CAUSE.

STATE OF TENNESSEE

COUNTY OF _____

Petitioner, being first duly sworn, makes an oath that the petitioner has read the foregoing petition, knows the contents thereof and that the contents thereof are true and correct to the best of the petitioner's knowledge, information and belief.

PETITIONER

Sworn to and subscribed before me
on _____, 20____.

My commission expires: _____

FIAT

[For use when no Ex Parte Order is issued.]

To the Clerk:

Issue a show cause order for the respondent to appear on and show cause why
an Order of Protection should not issue.

Date

Judge

Order of Protection

☐ Amended Order

Case No.

Court

County State

PETITIONER/PLAINTIFF

First

Middle

Last

And/or on behalf of minor family member(s): (list name and DOB)

PETITIONER/PLAINTIFF IDENTIFIERS

Date of Birth of Petitioner

Other Protected Persons/DOB:

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RESPONDENT

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Respondent's Address

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EYES	HAIR	SOCIAL SECURITY #		
<input type="text"/>	<input type="text"/>	<input type="text"/>		
DRIVERS LICENSE #				STATE
<input type="text"/>				<input type="text"/>

Distinguishing Features

CAUTION:

☐

Weapon Involved

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the Respondent has been provided with reasonable notice and opportunity to be heard.

☐ Additional findings of this order are as set forth below.

THE COURT HEREBY ORDERS:

- ☐ That the above named Respondent be restrained from committing further acts of abuse or threats of abuse against petitioner or petitioner's minor children.
- ☐ That the above named Respondent be restrained from any contact with the Petitioner/Plaintiff.
- ☐ Additional terms of this order are as set forth below.

The terms of this order shall be effective until ,

WARNINGS TO RESPONDENT:

This order shall be enforced by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).

Federal law provides penalties for possessing, transporting, shipping, or receiving any firearm or ammunition (18 U.S.C. Section 922).

Only the Court can change this order.

THE COURT FURTHER FINDS AS FOLLOWS:

That the respondent represents a credible threat to the physical safety of petitioner; that respondent received actual notice of the hearing; that respondent had an opportunity to participate in the hearing.

☐ That Tennessee is the home state of the parties' minor child(ren) and the Court has jurisdiction over child custody.
OR

☐ That the minor child(ren) is/are present in this State and that petitioner and/or the minor child(ren) has/have been subjected to or threatened with mistreatment or abuse and the Court has temporary emergency jurisdiction over child custody. [If there is a previous or pending child custody proceeding in another State having jurisdiction under the UCCJEA:] Such temporary emergency jurisdiction shall expire on _____, 20____ or when an Order is obtained from the Court of the other State.

IT IS FURTHER ORDERED AS FOLLOWS:

That the respondent is hereby ordered to refrain from committing domestic abuse or threatening to commit domestic abuse against the petitioner or the petitioners' minor child(ren) and stalking the petitioner, as defined in T.C.A. § 39-17-315.

(X where applicable)

☐ The respondent is hereby ordered to refrain from telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly, or coming about petitioner for any purpose.

☐ The petitioner is awarded custody of the parties' minor child(ren).

☐ Respondent shall have visitation with the parties' minor child(ren) at the following times:

_____.

Visitation shall be supervised by _____.
Exchange of the parties' minor child(ren) for the purposes of visitation shall take place at the following location: _____.

☐ Respondent shall pay \$_____ per _____ for the support of the parties' minor child(ren), the payments to be made to the Clerk's office, together with the Clerk's lawful fee of five percent (5%) [ten percent (10%) in counties having a population of more than seven hundred thousand (700,000) according to the 1990 federal census or any subsequent federal census] (\$_____), for a total payment of \$_____ per _____. Wage assignment shall issue when applicable.

☐ Respondent shall pay \$_____ per _____ for the support of petitioner, the payments to be made to the Clerk's office, together with the Clerk's lawful fee of five percent (5%) (\$_____), for a total payment of \$_____ per _____. Wage assignment shall issue when applicable.

☐ Petitioner is awarded exclusive possession of the parties' residence at _____ and respondent is evicted therefrom.

☐ Respondent shall provide suitable alternate housing for the petitioner by _____, 20_____.

☐ Respondent shall not possess any firearm and shall surrender any firearms in respondent's possession to law enforcement by _____, 20_____.

☐ Respondent is ordered to attend the following intervention program(s) for violence and control issues and/or substance abuse problems for a period of no less than six (6) months and shall take whatever steps necessary to insure that the Court is kept informed of respondent's attendance, participation, and progress in such intervention program(s):

☐ (Such other provisions as may be necessary to protect the petitioner and the petitioner's minor child(ren) _____

IT IS FURTHER ORDERED that respondent shall pay the costs and litigation tax of this cause for which execution may issue.

IT IS FURTHER ORDERED that this Order shall remain in effect for a period of one (1) year, and petitioner, upon notice to respondent, may request a continuation of this Order.

IT IS FURTHER ORDERED, that the home and work addresses and telephone numbers, social security number, and any other information requested to be held confidential which could reasonably be used to locate the whereabouts of the petitioner shall be maintained as confidential by the records custodian of a utility service provider under the provisions of Tennessee Code Annotated, Section 10-7-504(15), and may be maintained as confidential by the records custodian of a governmental entity under the provisions of Tennessee Code Annotated, Section 10-7-504(16), upon a copy of this Order of protection being provided to the records custodian of the utility service provider or governmental entity maintaining the particular records sought to be held confidential.

DATE

JUDGE

RETURN OF SERVICE

Served on the respondent, a resident of Tennessee, by personally reading the order to the respondent and by leaving a copy of the order with the respondent, on _____, 20____ at _____ a.m./p.m.

OR, ALTERNATIVELY:

Served on the respondent, a non-resident of Tennessee, by mail in the manner as set forth in Tennessee Code Annotated §§ 20-2-215 and 20-2-216, on the _____, 20____ at _____ a.m./p.m.

Clerk/Deputy Clerk or Authorized Officer

Ex Parte Order of Protection

☐ Amended Order

Case No. _____

Court _____

County _____

State _____

PETITIONER/PLAINTIFF

First

Middle

Last

PETITIONER/PLAINTIFF IDENTIFIERS

Date of Birth of Petitioner _____

And/or on behalf of minor family member(s): (list name and
DOB) _____

Other Protected Persons/DOB: _____

V.

RESPONDENT

First

Middle

Last

Relationship to Petitioner: _____

Respondent's Address _____

RESPONDENT IDENTIFIERS

SEX	RACE	DOB	HT	WT
EYES	HAIR	SOCIAL SECURITY #		
DRIVERS LICENSE #				STATE

Distinguishing Features _____

CAUTION:



Weapon Involved

TO THE RESPONDENT:

It appears to the Court from the sworn petition for an order of protection that such an order should issue pursuant to Tennessee Code Annotated, title 36, chapter 3, part 6.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED:

1. That you shall not commit or threaten to commit domestic abuse against the petitioner or petitioner's minor children;
2. That you shall not telephone, contact, or otherwise communicate with the petitioner, directly or indirectly;
3. That you shall not stalk the petitioner, as defined in TCA § 39-17-315;
4. That if you violate this order, you may be held in contempt of Court and punished by incarceration and/or a fine;
5. That a hearing on this matter will be held on the date set out below and you have a right to secure counsel to represent you at the hearing;
6. That, pursuant to Tennessee Code Annotated § 36-3-609, a copy of this order be issued to all local law enforcement agencies in _____ County;
7. That pursuant to Tennessee Code Annotated § 36-3-611, you shall be arrested by a law enforcement officer without a warrant if that officer has reasonable cause to believe that you have violated or are violating this order;

IF YOU VIOLATE THIS ORDER THINKING THAT THE OTHER PARTY HAS GIVEN YOU PERMISSION TO DO SO, YOU ARE WRONG AND CAN BE ARRESTED AND PROSECUTED. THE TERMS OF THIS ORDER CAN NOT BE CHANGED BY AGREEMENT OF THE PARTIES. ONLY THE COURT CAN CHANGE THIS ORDER. VIOLATION OF THIS ORDER BY THE RESPONDENT WILL CONSTITUTE CONTEMPT OF COURT.

DATE _____

JUDGE _____

DATE OF HEARING _____ at _____ a.m./p.m.

Served on respondent by [check one] _____ personally reading the Order to respondent and by leaving a copy of the Order with respondent, OR _____ by mail on a non-resident of Tennessee in the manner as set forth in Tennessee Code Annotated §§ 20-2-215 and 20-2-216, on _____, 20____ at _____ a.m./p.m.

(c) The administrative office of the courts shall print or cause to be printed the forms set out in this section and distribute such forms to the office of each clerk responsible for providing such forms to the public. Upon the forms being printed and distributed to the clerks, the existing forms shall no longer be used but any such old form shall still be accepted for filing.

SECTION 2. For the purpose of printing and distributing the forms prescribed by this act, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on July 1, 2001, the public welfare requiring it.